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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF WASHINGTON

9 UNITED STATES OF AMERICA,)
10 Plaintiff,) 4:19-CR-6049-SMJ-1
11 v.) United States' Motion to Reconsider
12) Dismissal of Count 2
13 IVAN RENTERIA CASTILLO,) (ECF No. 115)
14 Defendant.)
15)

16 Plaintiff, United States of America, by and through William D. Hyslop, United
17 States Attorney for the Eastern District of Washington, Stephanie Van Marter, Assistant
18 United States Attorneys for the Eastern District of Washington, submits the following
19 Motion to Reconsider Dismissal of Count 2 (ECF 115).

20 **I. Background**

21 On March 3, 2020, Defendant Castillo filed a motion to dismiss Count 2 of the
22 Superseding Indictment on grounds that the United States deported a material witness. On
23 May 28, 2020, the Court heard argument as to the motion to dismiss and granted
24 Defendant's motion in part. An order issued on June 9, 2009. ECF 115.

25 Since the time Defendant raised this issue with the United States, the United States
26 has been attempting to locate this witness. The COVID -19 epidemic created several
27 constraints for law enforcement to actively look for the witness however, days after this
28 Court's hearing on May 28, 2020, this witness had activity on social media. Based upon

1 that activity, it appeared he may be back in the area. Based upon this Court's ruling, the
 2 United States applied for and obtained a material witness warrant. ECF 111 and 112.
 3 On June 10, 2020, the witness was located and arrested pursuant to the material witness
 4 warrant.

5 The United States notified counsel this morning that the witness has been located
 6 and as soon as the witness has appointed counsel, the parties will work together to set up a
 7 time for him to be interviewed by the defense. The United States also inquired as to the
 8 position of counsel as to the reinstatement of the charge. Counsel indicated he would still
 9 object to the reinstatement of the charge, arguing it was too little too late. However,
 10 respectfully, the United States submits that is not the proper remedy under the law for this
 11 circumstance. The witness has been located in sufficient time for the Defendant to utilize
 12 this witness and their testimony at trial.

13 It is therefore the United States' position that the basis for the dismissal of Count 2
 14 no longer exists and has been cured by locating the witness and making him available to
 15 counsel prior to trial. The United States further respectfully submits, the Defendant has
 16 not suffered any prejudice as this matter was previously set for July 20, 2020 prior to the
 17 decision as to the pending motion. Therefore, the trial was not delayed in any manner due
 18 to this witness or the issues surrounding this witness.

19 Conclusion

20 For the foregoing reasons, the United States respectfully submits there is no basis
 21 with which to dismiss Count 2 of the Superseding Indictment. The United States asks
 22 this Court to reconsider its order of dismissal and reinstate the charge.

23
 24 DATED June 11, 2020.

25 William D. Hyslop
 26 United States Attorney

27 s/ Stephanie Van Marter
 28 Stephanie Van Marter
 Assistant United States Attorney

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2 **CERTIFICATION**
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4 I hereby certify that on June 11, 2020 I electronically filed the foregoing with the
5 Clerk of the Court and counsel of record using the CM/ECF System.
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12 Attorneys for Ivan Renteria Castillo (1)

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14 *s/ Stephanie Van Marter*
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16 Assistant United States Attorney
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